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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,759	09/30/2003	Nathanael F. Ehrich	RSW920030072US1	7793

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EXAMINER	
BARQADLE, YASIN M	

ART UNIT	PAPER NUMBER
2153	

NOTIFICATION DATE	DELIVERY MODE
11/02/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mld@mindspring.com

**Office Action Summary**

Application No.

10/674,759

Applicant(s)

EHRICH ET AL.

Examiner

Yasin M. Barqadle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2 and 4-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 09/28/2007.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

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**Response to Amendment**

1. The amendment filed on August 13 2007 regarding claim 1 has been fully considered but are not deemed persuasive. The arguments towards claims 6-12 are moot in view of the new ground(s) of rejection necessitated by Applicant's amendment.

- Claims 1-2,4-6 and 8-12 have been amended.
- Claim 3 has been canceled.
- Claims 1-2, and 4-12 are presented for examination.

**Response to Arguments**

2. Claim 3 required to show "the request is for a particular web page" and the "selected content comprises a version of the particular web page." Shaffer teaches clickable underlined links corresponding to files available for download with different compression formats and download time. See fig. 6. Therefore, claim 3 limitations has been met Shaffer.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: to determine current values... In other words "the instructions to determine further comprise... shows incompleteness.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Shaffer et al (US6345279).

As per claim 1,4 and 12 Shaffer teaches a method and a computer program product for providing autonomic content load balancing (fig. 1 and steps in fig. 2. See abstract), comprising steps of:  
defining a plurality of alternative versions of content a

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Web page to be served (clickable underlined links corresponding to files available for download with different compression formats and download time. See fig. 6), along with values of one or more conditions under which each of the alternative versions should be selected (col. 9, lines 11-36 and fig. 2, steps A2-A6; receiving a request for the Web page the content;

determining current values of the conditions (col. 7, lines 13-6 and col. 9, lines 11-41); using the determined current values to select one of the alternative versions (see fig. 6 underlined links and corresponding compression types displayed in 400); and

serving the selected version of the Web page, responsive to the request (downloading requested files from multimedia server 210; col. 9, lines 11-41. See figs 3 and 4).

As per claim 2, Shaffer teaches the method according to Claim 1, wherein each of the alternative versions comprises the Web page represented using a different media type (col. 6, lines 23-49 and col. 9, lines 11-41 and fig. 6).

As per claim 5, Shaffer teaches the method according to Claim 1, wherein the conditions pertain to at least one of system

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conditions and network system/network conditions (fig. 2, steps A1-A6 and col. 6, lines 53-65).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Shaffer et al (US63452790) in view of Leblang et al (US5649200), hereinafter "Leblang".

As per claim 6-9, Shaffer teaches a method of using dynamically selectable content versions (fig. 5 and fig. 6), comprising steps of:

receiving a request for content having selectable versions (col. 9, lines 11-36);

identifying at least one or more conditions condition associated with the selectable versions (col. 9, lines 11-36 and fig. 2, steps A2-A6);

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determining a current values of value for each of the at least one identified conditions (col. 9, lines 11-36 and fig. 2, steps A2-A6. See fig. 6 compression versions);

using the determined current value for each of the at least one identified conditions to select (a content version);

a web page with at least two different portion, each of which has associated therewith a plurality of alternative selectable versions (see fig. 6 underlined links and corresponding compression types displayed in 400).

Although Shaffer shows substantial features of the claimed invention including downloading (retrieving) multimedia files with different compression versions from a file server and determining the availability of a desired file, Shaffer does not explicitly show a directory structure location associated with the content.

Nonetheless, this feature is well known in the art and would have been an obvious modification of the system disclosed by Shaffer, as evidenced by Leblang USPN. (5649200).

In analogous art, Leblang whose invention is about dynamic rule based version control system; disclose a directory structure location associated with the content. [Figures 18-19 and col. 27, lines 4-31]. Giving the teaching of Leblang, a person of

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ordinary skill in the art would have readily recognized the desirability and the advantage of modifying Shaffer by employing the system of Leblang so that files are organized in hierarchical data structure that are easily accessible and recognizable by their names or versions in the directory structure.

Leblang further teaches select a path within the directory structure location (col. 27, lines 4-31 and abstract); and

using the selectable version of the content which is stored at the selected path using the determined current values to select from among the selectable versions to create a response to the request (col. 2, lines 6-21 and col. 28, lines 23-49).

As to claim 10, this is a computer-implemented system with similar limitations as in claims 6-8 above. Therefore, it is rejected with the same rationale. Shaffer further teaches a processor and memory storing instructions (see figures steps of fig. 3 and the structure of figures 4-6).

As per claim 11, Shaffer teaches the system according to Claim 10, wherein the instructions configured to determine comprises



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comprise instructions configured to obtain measurements collected by an agent (col. 6, lines 53 to col. 7, line 8).

### **Conclusion**

6. **ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

The prior made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yasin

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Bargadle whose telephone number is 571-272-3947. The examiner can normally be reached on 9:00 AM to 5:30 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Burgess can be reached on 571-272-3949. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or public PAIR system. Status information for unpublished applications is available through private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

YB

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